

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DEVON FLOYD,

Petitioner,

v.

MICHELLE RICCI, et al.,

Respondents.

Civil No. 09-5338 (PGS)

ORDER

An Amended Petition for Writ of Habeas Corpus (Docket Entry #4) having been filed in the above action, pursuant to 28 U.S.C. § 2254, and notice having been given pursuant to Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000),

IT IS on this 4 day of October, 2010,

ORDERED that the Clerk of the Court shall serve copies of the Amended Petition (Docket Entry #4) and this Order upon Respondents and upon the Attorney General of the State of New Jersey, by certified mail, return receipt requested, with all costs of service advanced by the United States; and it is further

ORDERED that, as required by Rule 4 of the Rules Governing Section 2254 Cases, see 28 U.S.C. § 2254 Rule 4, this Court has screened the Amended Petition for dismissal and determined that dismissal of the Petition without an answer and the record is not warranted; and it is further

ORDERED that Respondents shall electronically file a full and complete answer to said Amended Petition within 45 days of the entry of this Order, see Ukawabutu v. Morton, 997 F. Supp. 605 (D.N.J. 1998); and it is further

ORDERED that Respondents' answer shall address the allegations and grounds of the Amended Petition, and shall adhere to the requirements of 28 U.S.C. § 2254 Rule 5; and it is further

ORDERED that all non-jurisdictional affirmative defenses subject to waiver, such as timeliness, not raised in Respondents' answer or at the earliest practicable moment thereafter will be deemed waived; and it is further

ORDERED that the answer shall address the merits of each ground in the Amended Petition, see 28 U.S.C. § 2254(b)(2); and it is further

ORDERED that the answer shall indicate what transcripts (of pretrial, trial, sentencing, or post-conviction proceedings) are available, when they can be furnished, and what proceedings have been recorded but not transcribed; and it is further

ORDERED that Respondents shall attach to the answer parts of the transcript that the Respondent considers relevant and, if a transcript cannot be obtained, Respondent may submit a narrative summary of the evidence, see 28 U.S.C. § 2254 Rule 5(c); and it is further

ORDERED that Respondents shall file with the answer a copy of: (1) any brief that Petitioner submitted in an appellate court contesting the conviction or sentence, or contesting an adverse judgment or order in a post-conviction proceeding; (2) any brief that the prosecution submitted in an appellate court relating to the conviction or sentence; and (3) the opinions and orders relating to the conviction or the sentence, see 28 U.S.C. § 2254 Rule 5(d); and it is further

ORDERED that the answer shall contain an index of exhibits; and it is further

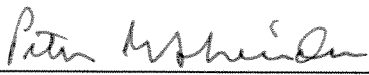
ORDERED that Respondents shall file the answer, the index of exhibits, and the exhibits electronically; and it is further

ORDERED that Petitioner shall file and serve a reply to the answer within 45 days of Petitioner's receipt of same, see 28 U.S.C. § 2254 Rule 5(e); and it is further

ORDERED that, within 7 days of Petitioner's release, be it on parole or otherwise, Respondents shall electronically file a written notice of same with the Clerk; and it is finally

ORDERED that the Clerk shall serve this Order on Petitioner by regular mail.

October 4, 2010



PETER G. SHERIDAN, U.S.D.J.